

**Remarks by Hans H. Hertell
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In the
Seminar on the**

I am pleased to share with you all today a few observations where we recognize the importance of a new institution and figure, as is that of the Ombudsman.

On the threshold of the XXI century the recognition of the people's fundamental rights, as a primary base for the consolidation of the democracy and Rule of Law, are vital for people all around the world. In our societies there has been mechanisms of protection towards human rights undergoing perfection. In this sense, institutions that have been directed to look after the protection of human rights and its protection towards the abuse of power of state or private origin have been created.

Together with advances in science and technology the possibilities of harming an individuals rights have become more complex, which has made it necessary to incorporate modern institutions that ensure the protection of the peoples rights. It is no longer necessary to deprive liberty or exercise determined physical action against people to injure their rights. A harmful act can originate in different circumstances as, for example, the lack of a professional fiscal, qualified and spirited; when judges are influenced by special interests that oppose the principals of an impartial justice and equal for all; or because of the lack of transparency in governing. Harming acts against citizens can occur because of misuse of the instances of the public administration.

In cases like these, the people require mechanisms that allow them to control the posture of an auditory court of State and the excesses that are committed in the public function's exercise, towards those which the citizen has scarce possibilities of obtaining protection of his rights, and to make effective his repair and compensation for damages.

In this context appears, recreated in Latin America, the figure of the ombudsman, institution that has a Swedish origin that looks to protect citizens towards any misuse of power in base of the of the faculties and attributions that has been given by The Constitution.

The ombudsman, though not exercising jurisdictional function nor relying on coercive power for the execution of its resolutions, ahs resulted for the moment a successful experience in several Latin American nations.

Some of the more important characteristics of the ombudsman have been formalized in different legislations. I would like to share with you the example of Argentina, which seems to be very typical in Latin America. For Argentina, as for other Latin-American countries, the figure of the ombudsman has the following characteristics in common:

- It is not a government entity, nor an apprentice of the political parties, as it is also not a cushion of political disputes. It is, without a doubt, an institution of the country that seeks to serve,
- It is a serious figure, objective, possessing credibility and prestige, and not a figure that is merely cosmetic or esthetic;
- It is characterized for its prudence, which should not be interpreted as a synonym of pleasure with power,
- Its profile is that of a collaborating critic of the Administration, not its contradictor,
- It is a dialog instrument, of communication and of profound solidarity between people.

A Process of Transparent, Participative, and Rigorous Selection

The selection of the Ombudsman is principally based in the legitimacy that offers a process of transparent and genuinely participative selection. These are primary conditions for the figure's credibility and the source of his moral authority. It is his only weapon. But when those conditions are given, it can be a very potent and effective weapon.

The people also expect not only that the Ombudsman and its alternates be selected in the setting of a transparent process, but that these be evaluated for their personal and professional capabilities as for their record in the struggle and defense of the human rights. In addition, the Ombudsman should rely on all the necessary guarantees that secure his stay in the post for the proposed period, which results as great importance that the rules that regulate some aspects, such as its prerogatives and incompatibilities be clear and precise.

Without a doubt, a large part of the efficiency of the Ombudsman's work would depend on the resources that are assigned to him. In this sense, the institution should have an adequate budget that allow reliability with the minimum personal and material resources for its functioning.

In short, an Ombudsman elected with transparency and according to professional and ethic criterions, that is really independent and that is set with an adequate budget, will be able to effectively dedicate himself to the carrying out of his duties.

Amongst these duties it is worth pointing out the promotion and defense of human rights, integrity, and personal liberty. Also the right to equal law opportunities and against discrimination.

Finally, the Ombudsman has to turn into the people's interlocutor for the faithful execution of his functions and duties in favor of the citizen. In other words, he should be a real defender of the people's rights.

This is a historical opportunity that has been presented to you, for the good of your country and for those who represent it.

Thank you very much!